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No.

Supreme Court, U.S.
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In The

SUPREME COURT OF THE UNITED STATES

KARL ERNEST HINDLE,

Petitioner,

Vs.

SHEILA KAY FUITH,

Respondent.

On Petition for a Writ of Certiorari To

The Supreme Court of the State of Florida

PETITION FOR A WRIT OF CERTIORARI

Karl E. Hindle,

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Questions Presented

1. Whether the conduct of the courts of the State of Florida hearing this issue have so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power in that a child ordered by the British Supreme Court under an international treaty binding on the United States, to receive medical treatment for an eye condition, has been ignored by the Floridian courts resulting in permanent blindness for the child.

2. Whether upon accepting a child has been internationally abducted to the U.S., can the courts of the State of Florida seize

jurisdiction over the matter on the basis no other state in the United States has jurisdiction, despite the constant and continuous objection of the petitioner that England is the proper forum, and does this seizure of jurisdiction constitute a violation of the father and/or child's rights to due process.

3. Whether a fraudulent application filed under the Hague Convention on the Civil Aspects of International Child Abduction (1980) filed by the mother and a U.S. Department of State official, with the British Government, falsely claiming jurisdiction under that Convention lay in Florida, was an international child abduction under color of law, a further

violation of the father and/or child's Constitutional right to Due Process, and/or a violation of the U.N. Convention on the Rights of the Child regarding "illicit removals".

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Opinions Below

The order of the British Supreme Court sending the child to the State of Florida, including an order for medical treatment for the child's eye condition is reproduced as appendix 1.

The order denying hearing by the Supreme Court of the State of Florida is reproduced as appendix 2.

The opinion and judgment of the Fifth District Court of Appeals of the State of Florida is reproduced as appendix 3.

The final order of the Volusia County Court, 7th Judicial Circuit of the State of Florida is reproduced as appendix 4.

Basis for Jurisdiction

The orders of the Florida State courts, entered July 12, 2010 by the Supreme Court of Florida denying review of the Fifth District Court of Appeal's judgment of April 23, 2010 (claiming jurisdiction on the basis of no other state of the United States holding jurisdiction) and the court of first instance, entered on October 6th, 2008 (claiming jurisdiction based upon residency).

The petitioner seeks review of the judgment of these courts, including the judgment by the highest State court in which a decision could be had and invokes this Honorable Court's jurisdiction under 28 U.S.C. 1257(a).

Constitutional Provisions Involved

Fourteenth Amendment to the United States Constitution

"All person born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.."

Faith and Credit Clause of Art. IV, § 1

Section 1.

"Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general

Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof."

International Treaties Involved

The Hague Convention on the Civil Aspects of International Child Abduction (1980) - herein referred to as the "Hague Convention".

Article 1

"The objects of the present Convention are -

a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and

b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States."

Article 7

"Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures -

a) to discover the whereabouts of a child who has been wrongfully removed or retained;

b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;

c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;

d) to exchange, where desirable, information

relating to the social background of the child;

e) to provide information of a general character as to the law of their State in connection with the application of the Convention;

f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organising or securing the effective exercise of rights of access;

g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;

h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;

i) to keep each other informed with respect to the

operation of this Convention and, as far as possible, to eliminate any obstacles to its application."

Article 13

Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that -

a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or

b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

Article 19

"A decision under this Convention concerning the return of the child shall not be taken to be a determination on the merits of any custody issue."

Article 21 (Extract)

"The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfilment of any conditions to which the exercise of those rights may be subject. The Central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights."

Article 31

In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units -

a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;

b) any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

The United Nations Convention on the Rights of the Child (1990)

– herein referred to as the "UN Convention".

Article 9

"1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by

the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of

the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned."

Federal Statutes Involved

Uniform Child Custody Jurisdiction and Enforcement Act (1997)

SECTION 105. INTERNATIONAL APPLICATION OF [ACT].

(a) A court of this State shall treat a foreign country as if it were a State of the United States for the purpose of applying [Articles] 1 and 2.

(b) Except as otherwise provided in subsection (c), a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this [Act] must be recognized and enforced under [Article] 3.

SECTION 201. INITIAL CHILD-CUSTODY JURISDICTION.

(a) Except as otherwise provided in Section 204, a court of this State has jurisdiction to make an initial child-custody determination only if:

(1) this State is the home State of the child on the date of the commencement of the proceeding, or was the home State of the child within six months before the commencement of the proceeding and the child is absent from this State but a parent or person acting as a parent continues to live in this State;

(2) a court of another State does not have jurisdiction under paragraph (1), or a court of the home State of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate forum under Section 207 or 208, and:

(A) the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this State other than mere physical presence; and

(B) substantial evidence is available in this State concerning the child's care, protection, training, and personal relationships;

(3) all courts having jurisdiction under paragraph (1) or (2) have declined to exercise jurisdiction on the ground that a court of this State is the more appropriate forum to determine the custody of the child under Section 207 or 208; or

(4) no court of any other State would have jurisdiction under the criteria specified in paragraph (1), (2), or (3).

(b) Subsection (a) is the exclusive jurisdictional basis for making a child-custody determination by a court of this State.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child-custody determination.

Statement of Case

A. Procedural History

After the child, Emily Rose Hindle, was unilaterally removed from the U.K. to the U.S. by the mother in February 2003, the father attempted to seek relief in the Minnesota courts in March 2003, but was denied due to lack of jurisdiction in the United States.

Subsequently, he sought relief before the Wisconsin courts in April 2003 but was denied due to lack of jurisdiction in the United States.

On June 6th 2003, the father petitioned Chelmsford County Court, Essex, England (where the child had been born and lived until her unilateral removal to the United States). That court seized jurisdiction and issued the father with parental responsibility order on August 14, 2003.

The child was voluntarily returned to the U.K. on September 19, 2003 and placed into the father's care by British police. The father returned to the English court for a permanent residency order on September 24, 2003, however these proceedings were stayed by the British High Court (the British Supreme Court).

The British Supreme Court received an application on September 24, 2003 under the Hague Convention filed by Barbara J. Greig, a U.S. Department of State official, on behalf of the mother claiming the State of Florida held jurisdiction on the basis of her six month's residency in that state.

On October 3, 2003 the British Supreme Court "returned" the child to the State of Florida on the basis of that application, and also vacated the father's English orders based on lack of jurisdiction as Florida held it. The Hague Convention order

includes a series of orders, known as "undertakings", which included that the child was to receive medical treatment "forthwith" for her eye condition, upon arrival and that proceedings were to be filed in the State of Florida to determine the child's future. Blondin v. Dubois, 238 F. 3d 153, n. 8 (2nd Cir. 2001), explains the term "undertaking".

On November 10, 2003 the father filed in Volusia County Court, 7th Judicial Circuit, Florida for primary residency and other issues.

On April 20, 2004 the court accepted a certified copy of the foreign order of the British Supreme Court and both mother and father's attorneys argued there was no jurisdiction in the State of Florida based on mother's lack of residency in the state.

It transpired that far from residing for six months or more in Florida, as she and the U.S. Government's

Barbara Greig claimed to the British Supreme Court, residency had been approximately six weeks if at all.

Nevertheless, the Lower Court ignored the lack of jurisdiction and continued proceedings, which were then substantially delayed by the arrest and deportation of the father at the request of Barbara Greig of the U.S. Department of State, his subsequent life-time ban from travel to the U.S. and when overcome, the further abduction of the child out of state and further concealment of the child by the mother and Ms. Greig in 2005.

The father was awarded a temporary sole custody order on October 26, 2005.

The child was located and returned to Florida in December 2006; however the father had again to depart the country due to visa restrictions placed upon him by the U.S. Department of State. He was

subsequently denied entry to the U.S. until May 2008 again at the behest of the Ms Greig and others at the Office of Childrens Issues, the U.S. Central Authority.

Final judgment was issued on October 6, 2008 after a hearing on May 23, 2008. The Lower Court claimed jurisdiction on basis of mother's six month residency in the State prior to filing of the action and stated, "In this County, we're provincials. We don't do the Hague Convention."

No enforcement of the British Supreme Court order for medical treatment for the child's blindness is provided at any time during proceedings or in the final judgment of the Lower Court, despite the father's continuous efforts.

Father appeals to Fifth District Court of Appeal on a timely basis on November 7, 2008. In his briefs filed

with that Court, the father argued lack of jurisdiction of the Florida court based on six month residency not being satisfied and the fraudulent claim of the mother and before the British Supreme Court that Florida held jurisdiction (cf art 31)..

The father further argued that his and/or the child's 14th Amendment rights had been violated by the arbitrary seizure of jurisdiction by the Lower Court and that the removal of the child from the U.K. on both occasions constituted "wrongful removal" for the purposes of the Hague Convention, an "illicit removal" for the purposes of the U.N. Convention on the Rights of the Child and such seizure of jurisdiction was also not in conformity with the U.C.C.J.A. or U.C.C.J.E.A. as subsequently enacted, i.e. to prevent forum shopping and the wrongful removal and retention of children across jurisdictional borders.

The father also argued that the lower court had not held fair hearings, nor had it acted in a timely fashion as required under Florida judicial standards nor the Hague Convention for speedy resolution of issues, having taken almost 5 years to issue a final judgment.

In addition, the father argued that comity should have been granted for the British Supreme Court order for the child to receive medical treatment for her blindness (Vagenas v. Continental Gin Company, 988 F.2d 104 (11th Cir. 1993)- treaty between United States and Greece elevated foreign judgment to status of
sister state judgment). Further, that the mother allowing the child to go blind precluded an award of custody based on T.B. v. Department of Children & Families 718 So.2d 397. Other matters were argued including child support and visitation costs.

The Appellate court issued a judgment and opinion on April 23, 2010 reversing in part and affirming in part. The Appellate court agreed that the child had been abducted from the U.K. by the mother (referring to the mother's "unilateral removal" from the U.K., this being the language of the U.C.C.J.E.A. for 'child abduction'), but then proceeded to claim jurisdiction on the basis no other state in the United States held it, whilst ignoring the fraud on the British Supreme Court which resulted in the child physical presence in Florida. The father also claimed that his and/or the child's due process rights had been violated as a consequence.

The Appellate court agreed to review the child support and visitation cost issues and reversed, but refused to review any other matter, including the failure to enforce the British Supreme Court order for medical treatment for the child's blindness.

The father issued a timely appeal to the Supreme Court of the State of Florida on May 25, 2010 based on the conflict of the Lower Court's decision with the British Supreme Court order for medical treatment for the child's blindness (lack of comity), lack of jurisdiction and violation of his and the child's rights to due process.

On June 24, 2010 that Honorable Court struck the British Supreme Court order from the record.

Subsequently, that Honorable Court refused review on July 12, 2010.

The father/petitioner subsequently files a timely application for writ of certiorari with the Supreme Court of the United States.

B. Facts Presented at Trial

Abduction from the United Kingdom

The petitioner reproduces the opinion issued by the Fifth District Court of Appeal:

"The child was born in the United Kingdom where the father resides and removed to Florida by the mother's unilateral decision." (p.5, para.2, line 3).

"Unilateral removal" is the language of the U.C.C.J.A. for child abduction (see sec. 1(a)(5)).

The child resided with her father and mother from birth until the child's "other unilateral removal" in February 2003 in England which is elevated to the status of "Sister State" in this instance. See Vagenas v. Continental Gin Company, 988 F.2d 104 (11th Cir. 1993) (treaty between United States and Greece

elevated foreign judgment to status of sister state judgment).

The mother and officials of the U.S. Department of State did cause an "other unilateral removal" of the child from England to the United States in February 2003 without the knowledge or consent of the father to gain sole physical custody, and deny the rights of the child to her father, and any rights the father may have or subsequently acquire, as a color of law fraud to deprive the father and child of their rights (see 18 U.S.C. § 242).

The child was subsequently sent to the State of Florida after representations by the mother to the British High Court and a Hague Convention application filed by the U.S. Government (Barbara Greig) claimed the child was subject to the jurisdiction of the State of Florida which was clearly

false. This was an additional fraud on the part of the mother and Barbara Grieg of the U.S. Department of State who filed the Hague Convention application to get the child sent to the State of Florida in an international child abduction under color of law (again 18 U.S.C. § 242).

In 1988, the United States entered the Convention, the text of which can be found in Duquette v. Tahan, 600 A.2d 472 (N.J. Super. Ct. App. Div. 1991). The objects of the Convention are to "secure the prompt return of children wrongfully removed to or retained in any Contracting State, and to ensure that the rights of custody and of access under the law of one Contracting State are effectively respected in other Contracting States." The father clearly had rights of custody for the purposes of the Hague Convention due to his parental responsibility order issued by Judge Hallett, Chelmsford County Court in England

on August 14th 2003 and which was quashed by the British High Court due to the fraudulent claim that the State of Florida held jurisdiction.

Congress implemented the treaty in 1988 by enacting the International Child Abduction Remedies Act, often referred to as ICARA. See 42 U.S.C. § 11601 et seq. ICARA vests concurrent jurisdiction over claims brought under the Convention in the United States District Courts and in the courts of the states.

Congress has found that the international abduction or wrongful retention of children is harmful to their well-being and that persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention. 42 U.S.C. §11601 (a) (1), (2).

Article 1 of the Hague Convention states the removal of a child is considered wrongful if it is "in breach of rights of custody . . . under the law of the State in which the child was habitually resident immediately before the removal . . . ."

The father had a parental responsibility order issued by the English court which seized the matter in June 2003 and which was quashed by the High Court as a consequence of the fraudulent representations on her residency in Florida by the mother and Barbara Greig of the U.S. Department of State.

The mother attempted to wrongly domesticate the Hague Convention order as a custody order in the State of Florida on April 13th 2004 and stated her address history for the prior five years which clearly demonstrates a lack of residency in any U.S. State or Florida and clearly identifies England as the "home

state". According to that declaration, the mother had been living in the State of Florida since August 2003 i.e. only one month at the time of filing the Hague Convention application (September 2003) and only 3 months prior to the father filing the case at issue in November 2003. (Article 19 of the Hague Convention states that "A decision under this Convention concerning the return of the child shall not be taken to be a determination on the merits of any custody issue.)

The Hague Convention and UCCJA (supplanted by the UCCJEA) specifically attempt to remove the creation of safe harbors for abductors and jurisdiction shoppers which has been allowed to fail in the case at issue. Article 3 of the Hague Convention seeks to deter parental abductions by eliminating the primary motivation for abductions, which is to obtain an advantage in custody

proceedings by commencing them in another country. Holder v. Holder, 305 F.3d 854, 860 (9th Cir. 2002). In this instance, the other country is the United States.

Blindness

The father presented to the Lower Court on April 20th, 2003 and at final hearing on May 28th, 2008, the British Supreme Court order issued October 3rd, 2003 for the child's medical treatment "forthwith" in Florida, and which was continuously referred to by the father throughout the protracted litigation of this matter.

The father presented a British eye hospital medical report (a report of Broomfield Eye Clinic, Broomfield Hospital, Chelmsford, UK) and American medical eye doctor (Dr. Robert Cordero of DeLand, Florida),

on the child's medical condition and need for medical treatment, including what that treatment consisted of and the prognosis for continued lack of treatment, i.e. blindness. This was presented at trial, however the Lower Court refused to accept any evidence from the father during the protracted proceedings despite ordering an independent medical examination on January 13, 2006 which further concluded the child was treatable (this was performed by Dr. Robert Cordero above).

The father presented 2 depositions of the mother, the child's prospective "adoptive" mother, Shannon Merriam together with the child's prospective "adoptive" grandfather, Leslie Merriam, on the need for medical treatment for the child at final trial.

The Lower Court excluded all the above evidence from the record after trial and prior to judgment.

The Appellate Court granted the father's motion to supplement the record with this evidence on April 13, 2009 then refused to review it.

The Supreme Court of Florida refused review as stated above.

Pedophile/Adoption

At trial, the father submitted the depositions of Leslie Merriam, a convicted pedophile who testified to the proposed "adoption" of the child in March/April 2003 by the mother to his son and daughter-in-law, Shannon Merriam. A deposition from Shannon Merriam affirming the efforts to adopt the child and her physical placement with herself and her husband was also submitted.

The entry of Leslie Merriam in the Wisconsin Sex Offenders Registry was also submitted.

The Lower Court excluded all this evidence after trial and before judgment.

The Appellate Court granted the father's motion to supplement the record with this evidence on April 13, 2009, while the Supreme Court of Florida refused review as stated above.

Abduction from Florida and Subsequent Concealment of the Child by the Mother and Barbara Greig of the U.S. Department of State

The depositions of Terri Jacobson (owner of the home where the mother and child hid in Kansas), together with that of Robert Ozier (the mother's cohabitating boyfriend in Kansas) were submitted at trial on May 28, 2010.

Both witnesses testified to the mother's contact with the U.S. Department of State, and efforts involving that agency to change the child's identity to evade

detection as well to keep the petitioner out of the country. Ms Jacobson specifically testified to speaking with Barbara Greig at least once, wherein Ms Jacobson was advised by Ms Greig that everything "was on the up and up", that no laws were being broken and that the allegations against the petitioner of sexual abuse of his children, domestic violence and so forth, were true.

At this time, the petitioner had legal custody of the child, who was classified as Missing & Endangered by the authorities.

These depositions were submitted at trial on May 28, 2010, but excluded by the Lower Court after trial and before judgment.

The Appellate Court granted the petitioner's motion to supplement the record with them on April 13, 2009, but then subsequently refused to review, while

the Florida Supreme Court refused review as stated above.

Father's arrest and barring from the United States by mother and Barbara J Greig to conceal an international child abduction under color of law

Letters from the mother's attorney of record to Ms. Greig and the U.S. Department of Homeland Security, requesting variously denial of visas to travel to the U.S.; refusal of entry to the U.S.; claiming he was a threat to the mother and his child (after the mother had lost a domestic violence injunction application and was admonished by the Lower Court for her behavior) were submitted at trial on May 28, 2010.

A fax from Ms. Greig to the arresting agents of the U.S. Department of Homeland Security on the day of the petitioner's arrest was also submitted.

Reasons for Granting the Writ

National & International Importance

The U.S. Department of State and the Congressional Tom Lantos Commission on Human Rights have both stated that there are several thousand American children abducted and retained overseas. Equally, similar numbers are abducted to the United States. Additionally, significant numbers of children are returned to the United States by Hague Convention partners complying with the Convention.

Congress has found that the international abduction or wrongful retention of children is harmful to their well-being and that persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention. 42 U.S.C. §11601 (a) (1), (2).

At the Congressional Tom Lantos Commission on Human Rights, Ernie Allen, President of the National Center for Missing and Exploited Children testified on December 2, 2009 regarding serious improvement steps he felt should be taken to encourage returns of abducted children to the United States:

> *"Fourth, we should educate all judges – both in the U.S. and internationally - about their responsibilities under the Hague Convention. This training should focus on how swift resolution of these cases best serves the child victims."*

And

> *"Fifth, we can play an important role in encouraging other countries to return abducted American children by reciprocating*

when their children are abducted into the United States. As we seek to find the best ways to resolve abductions involving American children who are taken abroad, we must be equally vigilant in resolving cases in which children are abducted from another country and brought into the United States. To better fulfill this responsibility, we should educate U.S. state and local law enforcement about the issue of international child abduction and the obligations of the United States under the Hague Convention."

The Hague Convention relies on trust between signatory partners. Trust that the Convention aims will be respected and met by participants and most of all, that the children subjected to it will be protected.

U.S. Government officials must not involve themselves in assisting in the abduction and concealment of children to the United States, nor in partisan activities designed not to protect the children, but to thwart the aims of international and domestic law and then to protect themselves from discovery.

The British Supreme Court justice, Sir Justice Johnson stated, "It is inconceivable to me that an American court will not enforce the order for medical treatment."

The inconceivable has been conceived in the Floridian courts and while the petitioner is justifiably angry at the inordinate delay in proceedings, such is not the sole fault of the Florida legal process, but also that of the arbitrary, unlawful

and prejudicial involvement of Barbara Greig and others of the U.S. Department of State.

Such has been the impact of the unfolding evidence of this matter that questions were tabled in the British Parliament and the British Foreign & Commonwealth Office dispatched a senior diplomat to Washington D.C. to seek assurances from the U.S. Department of State Assistant Secretary of State Maura Harty.

It takes enormous amounts of political, legislative and diplomatic effort to encourage countries, such as Japan, to accede to the Convention. In Japan's case, H.R.1326 condemning Japan for non-accession was recently passed by the House; however Japan and many other countries have still not signed the Convention.

Recently, the Sean Goldman case achieved national and international significance. Sean was abducted and retained in Brazil (a Hague Convention signatory) from his custodial father, David Goldman of New Jersey. A constant theme of the Brazilian family retaining Sean was that the child would be better protected in Brazil; that fairer court proceedings would take place in Brazil; that American courts would be biased against the Brazilian family and act only in favor of the American father's interests and much more. After several years, the vigorous efforts of Congressman Christopher Smith and Congress, and the monumental effort of the father, David Goldman and thousands of supporters worldwide, did Sean finally come home for Christmas 2009.

Such xenophobic claims are commonplace for American parents traveling overseas in their efforts

to recover their children and the example of this case reinforces those impressions. It is imperative that the United States demonstrates a continuous example of fairness towards foreign parents, and especially, that the children who are entrusted to its courts are protected in fact. Building on the reputation the U.S. has for disregarding the Hague Convention when it is "inconvenient" (whether true or not), does a great disservice to children abducted overseas, to children abducted to the U.S., or entrusted to it under the Hague Convention, not to mention all of the parents involved.

Many countries cite concerns over protection of the child, and fair treatment of their own citizen parent in the United States if the treaty is signed or if a child is sent to the United States.

This case demonstrates those concerns are justified, i.e. a U.S. government official assisting in the removal of a child from her proper home state and concealing her in the U.S.; allowing a child to become permanently blinded for the sake of simple, basic medical treatment; allowing the child to be endangered by being placed up for unlawful sale/adoption and into the care and contact of a convicted pedophile, denying a relationship between the child and her foreign parent; undue delay in proceedings; orchestration of arrest and deportation of the foreign parent; obstructing access to the U.S. courts by manipulating visa issuance; misuse of the criminal justice, child protection and domestic violence systems to threaten and intimidate the foreign parent and obstruct the litigation in the child's best interests.

To date, this child has only been allowed to see her father on one occasion in the last four years due to the conduct of the mother, the U.S. Government and the State of Florida, whose courts appear impotent and incapable of substantive action to protect the child and uphold the law.

Uniformity of Treatment by U.S. Courts hearing Cases Upon a Return Order

When a child is "returned" to the United States under the Hague Convention, this is not the end of the matter, but rather the beginning. The Hague Convention makes no distinction as to which of the two parents is more fit; a ruling under the Hague Convention is specifically not a determination of parental fitness (see art.19 Hague Convention).

Serious issues may remain, and indeed, the parent who successfully initiates a Hague Convention action

may, in fact, be unfit as a parent and the child placed at substantial, but not 'grave and intolerable risk" (cf, Art 13(b) Hague Convention).

When a child is returned to their country of habitual residence, proceedings should be allowed to take place speedily, without "artificial" interference, but with proper deference to the purpose of the Hague Convention, to the trust implicitly rendered in a return order and the concerns for the protection of the children involved.

Five years to obtain a final order is shameful and egregious. Ignoring a child's serious medical condition to the point of blindness is disgusting, barbaric and uncivilized.

An order for medical treatment has been ignored resulting in a child's blindness while presiding judge, Judge John V. Doyle, claimed, "In this County, we're

provincials. We don't do the Hague Convention," and then excluded all the medical evidence which subsequent state courts refused to review. His Honor is thankfully no longer in office having been compelled to resign after suspension from hearing certain civil matters, and amidst ongoing controversy over his conduct. However, this case is beyond one judge or one court.

There are few cases on the subject of "undertakings" and those that are extant deal with undertakings when ordering a child to a foreign Hague Convention signatory. There appear to be none on undertakings upon a return order to the United States being issued by a foreign court.

However, in Van de Sande v. Van de Sande, 431 F.3d 567, 570 (7th Cir. 2005) where the Court stated, "the rendering court [can] satisfy itself that the children

will in fact, and not just in legal theory, be protected if returned to their abuser's custody," the court should refuse to grant the Hague petition, leads to a conclusion that the child should not have been returned to the United States by the British Supreme Court because she has "in fact" been seriously and permanently harmed, i.e. blinded (even assuming jurisdiction had rightfully vested in Florida).

This is not a reputation American courts and authorities should risk acquiring, for it will, if not already, adversely impact the successful return to America of hundreds of internationally abducted children.

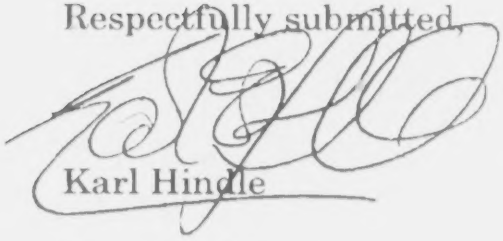
I end this with the words of Mr Ernie Allen, President of the NCMEC in his December 2, 2009 testimony before the Congressional Tom Lantos Commission on Human Rights"

"It is critical that the United States continue to improve our response to international child abduction so that we are able to serve as a model for other countries. We are encouraged by the Department of State's improvements to build capacity to handle these cases. The United States plays an important role in the world community. Once we ensure that our own house is in order – that our law enforcement officers and judges consistently apply the policies and best practices of the Hague Convention – we can stand on the world stage and bring others to the table for the benefit of all children."

Conclusion

For the reasons stated above, the writ should be granted and the case set down for argument.

Respectfully submitted,



Karl Hindle

Pro se petitioner,

Karl Hindle

8654 Scottingham Drive

Richmond, VA 23236

(804) 882-0944

Certificate of Compliance

No.

Karl Ernest Hindle,

Petitioner,

v.

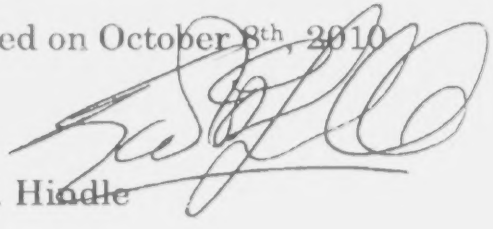
Sheila Kay Fuith,

Respondent

As required by Supreme Court Rule 33.1(h), I certify that the petition for a writ of certiorari contains 2,548 words, excluding the parts of the petition that are exempt by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 8th, 2010



Karl E. Hindle

8654 Scottingham Drive

Richmond, VA 23236

(804) 882-0944

APPENDIX 1

Order

No. FD03P02163

IN THE HIGH COURT OF JUSTICE

FAMILY DIVISION

PRINCIPAL REGISTRY

Before Mr Justice Johnson in Chambers

IN THE MATTER OF EMILY ROSE HINDLE (a Minor)

AND IN THE MATTER OF THE CHILD ABDUCTION AND CUSTODY ACT 1985

AND IN THE MATTER OF THE SUPREME COURT ACT 1981

Between Sheila Kay FUITH	Applicant
And Karl Ernest HINDLE	Defendant

UPON HEARING Counsel for both parties

UPON READING the written evidence filed on behalf of the parties

AND UPON the undertakings set out in schedule 1 below

AND UPON IT BEING ACKNOWLEDGED THAT THE DEFENDANT/KARL ERNEST HINDLE IS EMILY'S FATHER

AND UPON IT BEING AGREED THAT THE PLAINTIFF/MOTHER WILL MAKE EMILY AVAILABLE FOR SUPERVISED CONTACT WITHIN THE JURISDICTION OF THE STATE OF FLORIDA AS FOLLOWS:

I)Once per month at a venue and for times and/or dates to be agreed between the parties and supervised by a supervisor acceptable to the PLAINTIFF/MOTHER

IT IS ORDERED THAT:-

1. EMILY ROSE HINDLE born on 1st March 2002 shall return to the jurisdiction of the United States of America by and in the company of her MOTHER SHEILA KAY FUITH on or before 5th October 2003 to live at 200 SUNCREST DRIVE, DEBARY FLORIDA;
2. There be permission to both parties to apply to this court as to the implementation of this order;
3. Permission is granted to the Plaintiff and/or the Defendant to disclose this order and the papers lodged herein to the relevant authorities in the United States of America for the purpose of proceedings relating to Emily's future;

4. The order made by District Judge HALLET on 14th ASugust 2003 granting the Defendant Parental Responsibility is discharged;
5. A transcript of the judgement of Mr Justice Johnson given 3rd October 2003 shall be prepared at public expense and copies provided to the parties and leave is given to disclose a copy to the appropriate officer of the HOME OFFICE;
6. Emily's passport currently held by the PLAINTIFF"S SOLICITORS shall be released to the Plaintiff forthwith. Emily's passport currently held by the Tipstaff shall be released to the London passport office, forthwith. The defendant's passport to be released by the tipstaff to the Defendant;
7. No order for costs save detailed legal aid assessment of Plaintiff's costs.

Dated 3rd October 2003

Seal of Principal Registry of the

Family Division of the High Court 10 OCT 2003

SCHEDULE 1.

UPON the PLAINTIFF?MOTHER UNDERTAKING:

i) To provide to her solicitors Dawson Cornwall the following details on or before

20th October 2003 for onward transmission to the DEFENDANT'S solicitors

a. Confirmation of Emily's home address
b. Details of her American lawyer
c. Details of when and to whom Emily has been taken for medical treatment relating to her eye condition,

ii) Not to instigate or pursue any criminal proceedings arising from Emily's wrongful removal or retention by the Defendant

iii) FORTHWITH upon her return to the United States of America to take such steps so as to ensure EMILY receives such necessary medical treatment in relation to her eye condition.

iv) To use her best endeavours to instigate proceedings relating to Emily's future in the appropriate court in the United States of America, as soon as possible.

v) To accept service of legal documents at 200 SUNCREST DRIE DEBARY FLORIDA or her nominated U.S. lawyers.

APPENDIX 2

Supreme Court of Florida

MONDAY, JULY 12, 2010

CASE NO.: SC10-982

LOWER TRIBUNAL No(s).: 5D08-3850

2003-12692-FMDL

KARL E. HINDLE vs. SHEILA KAY FUITH

Petitioner(s) Respondent(s)

This cause having heretofore been submitted to the Court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Article V, Section 3(b), Florida Constitution, and the Court having determined that it should decline to accept jurisdiction, it is ordered that the petition for review is denied.

No motion for rehearing will be entertained by the Court. See Fla. R.App. P. 9.330(d)(2)

CANADY, CJ., AND PARIENTE, POLSTON, LABARGA AND PERRY, JJ., concur.

A True Copy

Test:

s/Thomas D.Hall

Seal of Supreme Court of The State of Florida

Thomas D.Hall

Clerk, Supreme Court

Wm

Served:

HON. SUSAN WRIGHT, CLERK

KARL E.HINDLE

CHARLOTTE KIMBERLY BANISTER-CRAIG

HON. JOHN VINCENT DOYLE, JUDGE

HON. DIANE M. MATUSEK, CLERK

IN THE DISTRICT COURT OF APPEALS OF THE STATE OF FLORIDA JANUARY TERM 2010

NOT FINAL UNTIL TIME EXPIRES

TO FILE REHEARING MOTION,

AND FILED, DISPOSED OF

KARL ERNEST HINDLE

Appellant,

CORRECTED OPINION

v. Case No. 5D08-3850

SHEILA KAY FUITH,

Appellee.

_____ /

Opinion filed April 23, 2010

Appeal from the Circuit Court

For Volusia County,

John V. Doyle, judge

Karl E. Hindle, Richmond, VA, pro se

C.Kim Banister, Daytona Beach, for Appellee

ORFINGER, J.

The father, Karl E. Hindle, appeals a final judgment of paternity, which determined that Florida courts have jurisdiction over the custody dispute concerning the parties' eight-year-old daughter; granted custody of the child to the mother, Sheila K. Fuith; ordered monthly child support; and placed the burden of visitation costs entirely on the father. We find that the circuit court had subject matter jurisdiction to make an initial custody determination and acted within its discretion in granting custody to the mother. However, we reverse as to the child support and visitation costs.

2

Subject matter jurisdiction over child custody matters is governed by the Uniform Child Custody

Jurisdiction Enforcement Act ("UCCJEA"), sections 61.502 to 61.542, Florida Statutes (2003).1 See Arjona v. Torres, 941 So. 2d 451, 454 (Fla. 3d DCA 2006).

One of the stated purposes of the UCCJEA is to "[a]void jurisdictional competition and conflict with courts of other states in matters of child custody." § 61.502(1), Fla. Stat. (2003). Under the UCCJEA, a foreign country is treated "as if it were a state of the United States" for purposes of applying the provisions of the UCCJEA. § 61.506(1), Fla. Stat. (2003). A Florida court has jurisdiction to make an initial child custody determination if Florida "is the home state of the child on the date of the commencement of the proceeding." § 61.514(1)(a), Fla. Stat. (2003).2 "Home state" is defined in relevant part as "the state in which a child lived with a parent or person acting as a parent for at least 6

consecutive months immediately before the commencement of a child custody proceeding. . . . A period of temporary absence of any of the mentioned persons is part of the period."

§ 61.503(7), Fla. Stat. (2003).

Footnote

1 "Subject matter jurisdiction--the 'power of the trial court to deal with a class of cases to which a particular case belongs'--is conferred upon a court by constitution or by statute." Strommen v. Strommen, 927 So. 2d 176, 179 (Fla. 2d DCA 2006) (quoting Cunningham v. Standard Guar. Ins. Co., 630 So. 2d 179, 181 (Fla. 1994)). Parties cannot agree to jurisdiction over the subject matter where none exists, and the defense of lack of subject matter jurisdiction can be raised at any time. Cunningham, 630 So. 2d at 181. "A trial court's lack of subject matter jurisdiction makes its judgments void . . . ." Strommen, 927 So. 2d at 179. 2 Contrary to the mother's contention, section 61.1312, Florida Statutes (2002), does not apply in this case. In 2002, the Florida Legislature adopted the UCCJEA, to replace the Uniform Child Custody Jurisdiction Act, sections 61.1302 to 61.1348, Florida Statutes, which had included that section. The

UCCJEA became effective on October 1, 2002. See ch. 2002-65, Laws of Fla. As this paternity action was commenced in November 2003, the applicable statute is section 61.514, Florida Statutes.

3

The UCCJEA gives jurisdictional priority to the hild's home state. Arjona, 941 So. 2d at 455. However, the UCCJEA grants an exception to the home state jurisdictional requirement when "[a] court of another state does not have jurisdiction . . . ." § 61.514(1)(b), Fla. Stat. (2003). Therefore, under the UCCJEA, even if Florida is not the child's home state, Florida may exercise subject matter jurisdiction over a child custody matter if another state does not have jurisdiction.

On the date that the paternity action was commenced in this case, Florida was not the "home state" of the child because the child had not lived in Florida for six consecutive months prior to the

commencement of the paternity action in November 2003. § 61.503(7), Fla. Stat. (2003). However, no other state had jurisdiction since the mother and the child had lived in several states in the six months prior to their arrival in Florida and the commencement of the paternity action. § 1.514(1)(a)-(b), Fla. Stat. (2003). As a result, because no court of any other state would have had jurisdiction under section 61.514, the Florida trial court had jurisdiction to make an initial custody determination. In making an initial custody determination, the trial court must evaluate the noninclusive factors listed in section 61.13(3), Florida Statutes, and determine the best interests of the child. See § 61.13, Fla. Stat. (2008); Fuller v. Fuller, 13 So. 3d 1108, 1109 (Fla. 5th DCA 2009); see Burgess v. Burgess, 347 So. 2d 1078, 1079 (Fla. 1st DCA 1977) (stating that

polestar for guidance in custody proceedings is best interests of child).

However, there is no statutory requirement that the trial court make specific written findings in a custody decision. See Adair v. Adair, 720 So. 2d 316, 317 (Fla. 4th DCA 1998); Murphy v. Murphy, 621 So. 2d 455, 456-57 (Fla. 4th DCA 1993). Thus, a final judgment is

4

not erroneous simply for failing to list the factors on which it relied in making its determination. Aguirre v. Aguirre, 985 So. 2d 1203, 1206 (Fla. 4th DCA 2008).

Here, the court found that it was in the best interest of the child that the mother have primary residential custody. A finding that primary residential custody is in the "best interests" of the child, whether made in the final judgment or at trial, is sufficient to uphold

a custody determination so long as there is substantial competent evidence in the record that permits the court to properly evaluate the relevant factors. Aguirre, 985 So. 2d at 1206; see Clark v. Clark, 825 So. 2d 1016, 1017 (Fla. 1st DCA 2002); Bader v. Bader, 639 So. 2d 122 (Fla. 2d DCA 1994). Because no transcript of the final hearing is contained in the record, this Court can review only errors that appear on the face of the judgment. Casella v. Casella, 569 So. 2d 848, 849 (Fla. 4th DCA 1990). As no error appears on the face of the judgment, this Court is unable to review the evidentiary basis of the court's ruling, and must affirm on appeal. Aguirre, 985 So. 2d at 1206. However, our review of the judgment does reveal several matters requiring further consideration. In determining child support, the court found that the mother earned $8 per hour working twenty hours per

week. With respect to the father's income, the court found that he "has the capacity to be employed[,] earning at least minimum wage and has no disability that would prevent him from working a full-time schedule of forty (40) hours per week." The court then calculated the father's current child support obligation to be $623.53 per month, and determined that he owed retroactive child support in the amount of $29,154. The judgment required the father to pay $124.71 per month toward the arrearage for a total support obligation of $748.24. However, in calculating child support, the court never disclosed the net incomes of each party and the parties' respective shares

5

of the child support expenses. And, the Child Support Guidelines Worksheet, which would have provided some insight on this issue, was not attached to the

final judgment of paternity as the final judgment indicated.3

Child support awards must be supported by substantial competent evidence. Reddick v. Reddick, 728 So. 2d 374 (Fla. 5th DCA 1999). The failure to make adequate findings requires remand for determination of child support. Armour v. McMiller, 15 So. 3d 923, 925 (Fla. 5th DCA 2009); Crouch v. Crouch, 898 So. 2d 177 (Fla. 5th DCA 2005). In making an award of child support, the trial court is required to determine the net income of each parent pursuant to section 61.30, and to include findings in the final judgment. See Deoca v. Deoca, 837 So. 2d 1137, 1138 (Fla. 5th DCA 2003); see also § 61.30(2) (includable income), (3) (allowable deductions), (4)-(6) (determination of net income), Fla. Stat. (2008). On remand, the trial court shall make sufficient findings to permit meaningful review of its ruling on any

child support amount, both monthly and retroactive. See, e.g., Aguirre, 985 So. 2d at 1207 (explaining that final judgment is facially erroneous, requiring remand, where it does not make any findings as to net income of each party as starting point for calculating child support or explain how calculation was performed); Sumlar v.

Footnote

3 We cannot determine how the court calculated the father's child support obligation. At the time that the final judgment was entered, the federal minimum wage was $6.55 per hour, which multiplied by 40 totals $262 per week and a *gross* salary of $1,126.60 per month. The court found that the mother earned $8 per hour, which multiplied by 20 hours, totals a *gross* salary of $688 per month. Thus, the parties' combined *gross* income is $1,814.60, which under the guidelines provides for the sum of $400 to $410 in monthly child support. While it does not appear that the court used the parties' financial affidavits, even if calculated based on those numbers (which include the

father's disability checks), the court's child support calculation is still unclear. According to the father, he has a *net* monthly income of $2,823.01 and the mother calculates her *net* income as $1,161.75, for a combined *net* income of $3,984.76, which under the guidelines provides for $819 to $828 in monthly child support. If the court did use the father's disability benefits to calculate the child support obligation (after finding that he was not disabled), then it must make specific findings, clarifying this source of income.

6

Sumlar, 827 So. 2d 1079, 1083 (Fla. 1st DCA 2002) (explaining that final judgment must include factual findings sufficiently specific to allow reviewing court to ascertain basis of calculations relating to child support); Savery v. Savery, 670 So. 2d 1034, 1035 (Fla. 4th DCA 1996) (explaining that to determine child support, trial court required to make specific findings with regard to parties' net incomes, derived from gross incomes minus allowable deductions).

The father also contends that the trial court erred when it ordered him to bear all visitation costs associated with visiting the child in Florida. He contends that these costs should be borne equally by both parents. The child was born in the United Kingdom where the father resides and removed to Florida by the mother's unilateral decision. The trial court ruled that the father can only visit the child in Florida, thereby, incurring substantial travel expenses to effectuate his visitation. The expense of visiting the child in Florida from the father's residence in the United Kingdom is a childrearing expense like any other. See Miller v. Miller, 826 So. 2d 480 (Fla. 1st DCA 2002); Drakulich v. Drakulich, 705 So. 2d 665, 667 (Fla. 3d DCA 1998). Child support guidelines provide that transportation expenses, like other childrearing costs, should be shared by the parents in accordance with their

financial means. McKenna v. Fisher, 778 So. 2d 498, 499 (Fla. 5th DCA 2001). On remand, the trial court is directed to reconsider the visitation expense issue. See Bevil v. Carson, 966 So. 2d 1007, 1009 (Fla. 5th DCA 2007).

AFFIRMED in part; REVERSED in part; REMANDED.

TORPY and LAWSON, JJ., concur.

APPENDIX 4

IN THE CIRCUIT COURT, SEVENTH

JUDICIAL CIRCUIT, IN AND FOR

VOLUSIA COUNTY, FLORIDA

Case No.: 2003-12692-FMDL

Division: 04

KARL ERNEST HINDLE,

Petitioner,

And

SHEILA KAY FUITH,

Respondent.

_____/

FINAL JUDGMENT OF PATERNITY

THIS CAUSE having come before the Court on a Petition to Determine Paternity, Custody and Related Relief, and having heard the testimony of the parties at Final Hearing, and the argument of counsel and having been fully advised on the premises, herevy FINDS, ORDERS AND ADJUDGES that:

1. This Court has jurisdiction over the parties and the subject matter of this action.
2. At least one of the parties hereto has been a resident of the State of Florida for at least six (6) months prior to the filing of this petition.
3. The minor child who is subject to this petition is: EMILY ROSE HINDLE, born March 1, 2002.
4. The Petitioner, KARL ERNEST HINDLE, is the natural and biological father of the minor child at issue.

5. The respondent, SHEILA KAY FUITH, is the natural and biological mother of the minor child at issue.

6. It is in the best interests of the minor child that the parties share parental responsibility for the minor child as set out by F.S. 61.13(2) requiring both parents to confer so that major decisions affecting the child will be determined jointly. However; it is in the child's best interest that the primary physical residence is with the Respondent/Mother. For the purposes of enforcement under the Uniform Child Custody Jurisdiction Act, the determination of primary residence in this paragraph is a custody determination.

7. Each party has a duty to support the minor child according to the Florida Child Support Guidelines. The Respondent/mother is

employed earning $8.00 per hour working approximately twenty (20) hours per week. The Petitioner/father has the capacity to be employed earning at least minimum wage and has no disability that would prevent him form working a full-time schedule of forty (40) hours per week. The Respondent/mother is providing health insurance for the minor child through Healthy Kids. There are currently no daycare costs for the minor child.

8. The Child Support Guidelines Worksheet, attached hereto and incorporated herein by reference, sets the Petitioner/father's current child support obligation at $623.53 per month.
9. The Petitioner/father owes a duty of retroactive support for the benefit of the minor child in the amount of $29,154.00. Payment towards that amount shall be at twenty per

cent *(20%) of the current child support in the amount of $124.71 per month. This is in addition to the current support. The total support due per month is $748.24.

10. All payments shall be made through the State Disbursement Unit, P.O. Box 8500, Tallahassee, Florida, 32314-8500.

11. The child currently has Medicaid Insurance through the Respondent/mother. At any time in the future should the child be deemed ineligible for said insurance the parties shall be equally responsible for the cost of insurance premiums. The parties shall be each be required to pay for one-half (1/2) of unreimbursed medical, dental, orthodontic, or opthalmic expenses related to the child.

12. The Petitioner/father is entitled to visitation with the minor child. The Petitioner/father is

a resident and citizen of the united Kingdom. At present the Court is not comfortable with allowing the minor child to travel outside of the United States of America for visitation with the Petitioner/father, due to a past incident in which the Petitioner/father wrongfully retained the minor child in the United Kingdom. While the Court is not ruling visitation outside of the United States of America at some point in the future; however , at the present time, the Court finds that it is in the best interests of the minor child that all visitation shall take place in the United States of America at a location local to the minor child's residence. The minor child is currently a resident of the State of Florida and resides in Bay County. The Petitioner/father is entitled to the following visitation schedule:

a. Every other Spring Break

b. Father's Day

c. The Petitioner/father's birthday

d. Every other Thanksgiving Break

e. The second half of Christmas Break each year

f. Two (2) weeks during the summer, beginning one week after school ends for the Spring Term and concluding two (2) weeks thereafter.

13. At the present time, all visitations will take place local to the residence of the minor child, within the United States of America. Should the petitioner/father desire to the child out of the State of Florida, he must obtain permission of the Court.

14. The Petitioner/father will bear the entire cost of exercising his visitation with the minor child.

15. Any time the Petitioner/father is in the United States and wishes to visit with the child he may be entitled to do so provided he has made acceptable arrangements with the Respondent/mother at least three (3) weeks in advance of the anticipated visitation and provided it does not interfere with the minor child's schooling.

16. The Respondent/mother shall be provided with the physical address as to where the minor child will be during visitation with the Petitioner/father and telephone numbers for contact purposes. The Respondent/mother is entitled to one (1) nightly phone call to speak to the child during visitation.

17. Both parties shall keep one another informed as to their current address and telephone numbers. Both parties shall keep the Clerk of the Court informed of their current addresses and phone numbers as well.

18. Due to the distance between the Petitioner/father and the minor chikld, contact during the majority of the year will be permissible by telephone, through email (provided the child is of sufficient age to utilize this service), by regular mail, and any other means available to the parties. Neither party is to prevent the other party from communicating with the minor child in an effort to hamper his or her relationship with the mino child. Neither party is to speak disparagingly about the other party in the

presence of the minor child, nor are they allowed to permit anyone else to do so.

19. Each party shall be responsible for his or her own attorney's fees and costs associated with this action.

It is therefore ORDERED AND ADJUDGED that:

A. The Petitioner/father. KARL ERNEST HINDLE, is the biological father of the minor child at issue;

B. It is in the best interest of the minor child that the parties have shared parental responsibility;

C. It is in the best interest of the minor child that the child reside with the Respondent/mother;

D. It is in the best interest of the minor child that the Petitioner/father have visitation and contact with the minor child as set forth in

paragraphs twelve (12) through eighteen (18) above;

E. The Petitioner/father owes a duty of current child support in the amount of $623.53 per month to be paid through the State Disbursement Unit on the first day of each month;

F. The etitioner/father owed a retroactive support in the amount of $29,154.00, payable at twenty percent (20%) of the current amount each month. The monthly retroactive support is $124.71 per month. This is in addition to the current child support. This support is to be paid through the State Disbursement Unit on the first day of each month.

G. The parties shall equally bear the cost of any unreimbursed medical, dental, orthodontic or

ophthalmic expenses incurred on behalf of the minor child;

H. The minor child currently has Medicaid insurance through the Respondent/mother, in the event that insurance is no longer available for the benefit of the child the parties shall equally divide the cost of any insurance premiums paid on behalf of the minor child;

I. Each party is responsible for his or her own attorney's fees and costs associated with this action.

J. RESERVATION OF JURISDICTION: This Court hereby expressly retains jurisdiction of this cause and the parties hereto to enter such further orders as may be deemed necessary by this Court to enforce the provisions of this Final Judgment.

DONE AND ORDERED in chambers in DeLand, Volusia County, Florida on this the 6 day of Oct, 2008.

s/ JOHN V. DOYLE

John V. Doyle, CIRCUIT JUDGE

Copies to:

David Ferguson, Esq.

C.Kim Banister, Esq.

APPENDIX 5: MISSING & ENDANGERED POSTER FOR EMILY ROSE HINDLE

MISSING
EMILY ROSE HINDLE
ENDANGERED

FDLE MISSING CHILDREN
INFORMATION CLEARINGHOUSE
1-888-FL MISSING
1-888-356-4774
www.net http://www.fdle.state.fl.us

DATE MISSING: 1/8/2005
MISSING FROM: Deltona, FL COUNTY: Volusia

BIRTH: 2/1/2002 AGE DISAPPEARED: 2 yrs 10 months
RACE: White HEIGHT: 3'06" HAIR: Brown
SEX: Female WEIGHT: 45 EYES: Blue

NARRATIVE:
Emily may be in the company of her mother Nicole Cobb.

If you have any information concerning the whereabouts of this child, please contact the

Volusia County Sheriff's Office at 386 248 1777

or the Missing Children Information Clearinghouse

APPENDIX 6: WISONSIN SEX OFFENDER'S REGISRTY FOR LESLIE MERRIAM

wisconsin.gov home | state agencies | subject directory

Wisconsin Department of Corrections
SOR Registrant Information

Notices & Disclaimers

Offender Search
By Name
By Map

Program Information
Sex Offender Registry
Victim Services
Community Notification
Agency Contacts

For Your Information
Frequent Questions
Terms & Definitions
DOC Publications
Related Web Links
What's New?

Privacy Statement

Registrant:	LESLIE O MERRIAM	Gender:	M
DOC ID#:	00246187	Race:	WHITE
Alias(es):	None Reported	Age:	50

Description Detail

Height:	6 FT 4 IN
Weight:	300
Eye color:	BLUE
Hair color:	BROWN

Photos Click a photo to view a larger version for display or printing.

Photo(s) Taken: 04/25/2002

Offense Requiring Registration

Conviction date:	07/20/1992
Conviction county:	MARATHON
Conviction state:	WI
Criminal code:	948.02(2) Second Degree Sexual Assault of a Child

Sex Offender Registry Status

Custody/supervision:	TERMINATED
Registration begin:	07/20/1992
Registration end:	LIFE REGISTRATION
Compliance status:	COMPLIANT

Note: Compliance indicates whether offender has responded to last contact letter from Sex Offender Registry Program.

Contacts: If this is an emergency, contact your local law enforcement agency. If you have concerns, corrections or questions about the registrant information on this page, please contact an appropriate authority listed below.

Sex Offender Registry Program

DOC SORP ADMINISTRATION
3099 E WASHINGTON AVENUE
MADISON WI 53704
(608)240-5830
Sex Offender Registry Office

Go Back

APPENDIX 7: DEPARTMENT OF HOMELAND SECURITY REPORT ON ARREST OF FATHER

09:52 From-INS LITIGATION BRADENTON 941-748-1284 T-641 P 004/013 F-982

U.S. Department of Justice
Immigration and Naturalization Service

Record of Deportable/Inadmissible Alien

Family Name (CAPS)	First	Middle	Sex	Hair	Eyes	Complexion
hindle, Karl			M	BRO		MED
Country of Citizenship	Passport Number and Country of Issue	File Number	Height	Weight	Complexion
UNITED KINGDOM	021558939	A097 134 162	70	180	
U.S. Address			Scars and Marks		
			See Narrative		
Date, Place, Time, and Manner of Last Entry		Passenger Boarded at	V.W.I. Number		X Photo / D Fingerprint / C Visa / C Signature
04/03/2004, Unknown Fla. APR, B-2		LONDON,			
Number, Street, City, Province (State) and Country of Permanent Residence			Method of Location/Apprehension		
UNITED KINGDOM			L 521.1		
Date of Birth	Date of Action	Location Code	At/Near		Date/Time
09/29/1964 Age: 39	05/27/2004	MIA/ORL	deland, FL		05/27/2004 0900
City, Province (State) and Country of Birth ENG, OTHER - FOR COUNTRIES OTHER THAN U.S., UNITED KINGDOM	AR [X]	Form (Type and No.) Lifted [ ] Not Lifted [ ]	By WAYNE BARRE		
NIV Issuing Post and NIV Number	Social Security Account Name		Status at Entry PFA Mexico		Status When Found III TRAVEL
Date Visa Issued	Social Security Number		Length of Time Legally in U.S. 4-30 DAYS		

Immigration Record	Criminal Record
NEGATIVE	None known

Name, Address, and Nationality of Spouse (Maiden Name, If Appropriate)	Number and Nationality of Minor Children
	EMILY (USC)

Father's Name, Nationality, and Address, If Known , Unk	Mother's Present and Maiden Names, Nationality, and Address, If Known , Unk

Hooker Out/Property in U.S. Not in Immediate Possession	Fingerprinted? Yes [X] No [ ]	INS Systems Checks NIIS NEGATIVE	Charge Code Word(s) RIB

Name and Address of (Last)(Current) U.S. Employer	Type of Employment	Salary	Employed Months NO / / / /

Narrative (Recite particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of initial entry, any repeated entry, or any subsequent entry, and elements which establish alienage and/or grounds of violation. Indicate routes and mode of travel to/from.)

SCARS, MARKS AND TATTOOS
Unknown

Narrative Title: Record of Deportable/Excludable Alien
Narrative Created by BARRE

-Subject is a native and citizen of the United Kingdom who lastentered the United States as set forth above as a non immigrant visitor for pleasure and was authorized to remain in the United States until April 17, 2004.
--Subject has remained in the UNited States buyond 04/17/2004 without permission from USCIS.

Investigation was predicated upon information received from US Department of State, Office of Children's Issues. (Please read State Department's case synopsis in A-file marked #1)

--Subject has also had issues with local police entities in US (Please read Volusia County Sheriff's Department reports in file) Subject has stalking charges pending with Volusia County F.O.

-Subject appears to have filed an I-539 extension of stay in the U.S. but it was received

Alien has been advised of communication privileges. _____ (Date/Initials)

WAYNE BARRE
SPECIAL AGENT
(Signature and Title of INS Official)

Distribution:
Pile
State

Received: (Subject and Documents) (Reports Required)
Officer: WAYNE BARRE
on May 27, 2004 (time)
Disposition: Warrant of Arrest/Notice to Appear
Examining Officer: [redacted]

Form I-213(Rev. 6/1/91)Y

APPENDIX 8:MEDICAL REPORT OF DR ROBERT CORDERO ON CHILD'S EYE CONDITION

Central Florida Eye Specialists, P.A.
Board Certified Ophthalmologists

Thomas M. Kropp, M.D.
Robert Cordero, M.D., F.A.C.S.
Phillip J. Mackinder, O.D.

May 2, 2006

Mr. Karl Hindle
213 North San Souci Avenue
DeLand, Florida 32720-4320

RE: EMILY HINDLE

Dear Mr. Hindle,

You hand delivered a letter on April 25, 2006 mentioning some questions about Emily's condition and her prognosis. As you know, I have only had two contacts with your daughter, the first date was on May 25, 2004, in which we became acquainted with her history and we did a review of her orthoptic evaluation at the Mid Essex Hospital Services in the United Kingdom. Your notes from Sharon McCabe, the Senior Orthoptist were quite informative. She indicated, at that time, that Emily had a squint of the right eye and was not responding favorably to occlusive patch therapy of the left eye. My findings then did support a right esotropia and a possible hypoplastic appearance to her optic nerve on the right eye. The left eye appeared normal. My diagnosis was that of a dense amblyopia of the right eye. We discussed options of observation and patching. For your edification, we know that there are three types of amblyopia. Amblyopia of course meaning poor vision. 1) There is a misalignment of the eye muscles and the eye that is not straight will have blunted vision and will not allow the visual information to go to the brain and be processed. 2) There is a refractive error, meaning that the child needs to have corrective lenses because of extreme nearsightedness or farsightedness and with the images being inappropriately focused, the visual information will not proceed to the brain in that eye and it will not work to its best. 3) An organic type, whereby, there is a cataract or some lesion in the retina, or some optic nerve disease from the onset of birth, or through some early childhood trauma or infection, or inflammation does not allow visual information to proceed to the brain. In the case of Emily, we know that this is

305 E. New York Ave., DeLand, FL 32724 (386) 734-2931 Fax (386) 734-2939
2445 South Volusia Ave., Orange City, FL 32763 (386) 917-0404

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APPENDIX 8:MEDICAL REPORT OF DR ROBERT CORDERO ON CHILD'S EYE CONDITION

not an issue of glasses because the cycloplegic measurements made with drops showed that there is no refractive error nor need for glasses. Your child has a preference to fixate with the left eye and the purpose of the patching was to allow the right eye to see if it could work. There has never been successful documentation of this treatment. On my other visit with her on March 30, 2006 we noted that her vision was counting fingers in the right eye and 20/30 in the left. She still had a right eye turn of approximately 40 prism diopters and choose to use her left eye for fixation. She did have some decreased ability to turn the right eye outward.

My impression is that she still has a right esotropia, that is a right eye that turns inward, and has dense amblyopia, which basically means that at this point, at age four, she will for the most part, have a preference for her using her left eye. The treatments, as we discussed is aggressive patching of the left eye to see if the right eye can at least receive some stimuli and realign itself somewhat. surgical intervention to realign the eye would involve her being placed under general anesthesia and relaxing the medial rectus muscle and tightening the lateral rectus muscle of the right eye. As I explained, the surgery in and of itself, would only realign the muscle and has around an 85% success rate, however, because of these underlying amblyopia, it is feasible that she will still need to be patched for the left eye. I would use this as a form of physical therapy and it would take at least a commitment on the part of the parents for continuous monthly visits to assure that the treatment is being optimized.

Should you have any questions, or if I could be of further assistance, please do not hesitate to contact me.

Regards,

Robert Cordero, M.D., F.A.C.S.

RC/tb

cc: (provided to patient) David Ferguson Woodard Simpson & Ferguson

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APPENDIX 9: COPY OF BRITISH MEDICAL REPORT ON CHILD'S EYE CONDITION

Mid Essex Hospital Services NHS
NHS Trust

BROOMFIELD HOSPITAL
Court Road
Broomfield
Chelmsford
Essex
CM1 7ET

30th September 2003

Re. Emily HINDLE 01-03-02
Hospital Number 737107
26 Brookmans Road
Stock
Ingatestone
Essex
CM4 9DB

Emily was originally referred by her GP to Mr Bell, Consultant Ophthalmologist, at Broomfield Hospital on 18th September 2002. She was six months of age. Emily was found to have a constant right convergent squint (where the eye turns inwards) with a possibility of right eccentric fixation. This is where the squinting eye does not straighten up to look when the good eye is covered, suggesting that the vision is quite poor. Due to Emily's young age an accurate vision assessment could not be carried out, but it was noted that Emily really objected to her good eye being covered, again a sign that the vision was poor in the right eye. Mr Bell, Consultant Ophthalmologist, carried out a cycloplegic refraction and fundus check. No need for glasses was found and the fundus (back of the eye) was found to be healthy.

Emily was commenced on a treatment regime of occlusion therapy, beginning with a week of inverse occlusion (patching of the bad eye) to try to encourage better fixation with the squinting eye (by disrupting the use of an eccentric point). One week later Emily was able to fixate better with her squinting eye, so conventional occlusion was commenced (patching of the good eye) for approximately 50% of the day. The patching regime proved to be of little success. Emily would "switch-off" when the patch was worn, showing no interest in toys etc. She was referred back to Mr Bell for his opinion, her refraction and fundus were checked again, but all proved normal. Emily was last seen on 9th January 2003, she had not been wearing her patch at all. Another period of inverse occlusion was recommended but she did not attend subsequent appointments.

Due to Emily's young age we have still not been able to assess her level of visual acuity accurately, but it is likely that her right eye is very poor indeed. It will not improve if she is not patched. She is likely to need a period of inverse occlusion, followed by conventional occlusion probably full time. This would necessitate fortnightly, if not weekly visits to the eye clinic. Surgery to improve the cosmesis of the squint is not recommended at this stage, but to concentrate on treating the poor right visual acuity.

A follow up appointment has now been made for 10 October 2003 to see Mr. Bell and the Orthoptist.

Yours faithfully,

pp Sharon McCabe
Senior Orthoptist

0:245 514500

Dictated by S. McCabe, pp Lucy Bibb, Directorate Manager.

APPENDIX 10: EXTRACT OF DEPOSITION OF TERRI JACOBSON

Q How many times did you speak with the state department?

A I'm not sure certain. I'm sure there were probably maybe ten communications.

Q Was it all with Ms. Greg?

A I believe so. I might have spoken to a secretary but primarily I'm pretty sure it was Barbara.

Q Why did you speak to them so many times?

A Because Sheila was arranging for an attorney.

Q When did Sheila start arranging for an attorney?

A That, I don't know., It would have been after October. I'm not sure. I'm not sure when it would have been.

Q Do you know why she was arranging for an attorney?

A Well, because after the welfare check was done, then there was some -- I think that's when the proceedings started or something came out about Karl's paternity.

Q Uh-huh (affirmative).

A Yeah, I don't know what exactly it was, but --

Q Did Sheila discover that there were court hearings that she had to come to in Florida?

A Yes.

APPENDIX 10: EXTRACT OF DEPOSITION OF TERRI JACOBSON

Q Was it --

A But we live -- The area that we live in, there are college students that live in the area. So, occasionally, we get people that knock on the door.

But it was just the timing of someone coming to the door, and they asked for a Sherry. And it just kind of freaked me out.

Q Okay. Okay. They asked for a Sherry?

A I think it was Sherry.

Q Okay. Do you know anybody named Sherry?

I'm sorry, I --

A No, I don't.

Q Okay. So, with everything else going on, it was just another thing that kind of made you nervous?

A Yeah.

Q Okay. Did Mrs. -- What did Barbara Greg tell you about this whole situation?

A Basically, just kind of verified that everything was on the up-and-up. And, I don't know, she seemed to have Sheila's best interest at heart. I don't know, she just --

Q Did she say anything about Mr. Hindle?

A Well, she -- I don't know that she said specifics about him. But, I mean, it was along the lines, you know, that what Sheila had said was true

APPENDIX 11: EXTRACT OF DEPOSITION OF ROBERT OZIER

A She was just -- she was saying how she was going to get her name changed and a new identity for her and Emily so they wouldn't have to worry about him anymore.

Q How was she going to do that?

A Through Barbara Greg at the State Department.

Q Did she tell you that before you came and got her or after?

A Before.

Q Do you know how often she was in contact with Barbara Greg?

A I do not.

Q Okay. But before you came and got her, she said that she was going to try to change her and her daughter's names and identity to hide from Emily's father; is that correct?

A Yes

Q Okay. And when you came down -- so you came down when? Would that have been February or March?

A Probably mid February.

Q Okay. And where did you pick Sheila up?

A It was a -- at an empty parking lot near Daytona Beach.

Q Do you remember where?

A I don't remember the name of it. It was near